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September 8, 2004

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VIA HAND DELIVERY

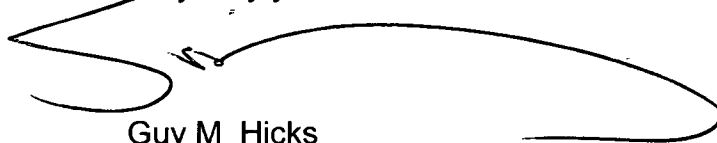
Hon. Pat Miller, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Rulemaking to Amend Public Pay Telephone Rules 1220-4-2-.43-.54*  
Docket No. 04-00211

Dear Chairman Miller:

In accordance with the recent Notice of Rulemaking issued by the Authority, BellSouth is submitting its comments regarding Rules 1220-4-2-.43 through .54. While many of these rules apply only to public pay telephone owners, several of these rules impose obligations on the ILECs, including BellSouth. For the convenience of the Authority, BellSouth is submitting both a brief summary of its comments and a version of these rules with BellSouth's suggested revisions shown in redline.

Very truly yours,



Guy M Hicks

GMH:ch

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BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In Re:       *Rulemaking to Amend Public Pay Telephone Rules 1220-4-2-.43-.54*

Docket No. 04-00211

**BELLSOUTH TELECOMMUNICATIONS, INC.'S COMMENTS**  
**ON AUTHORITY RULE 1220-4-2-.43 THROUGH .54**

BellSouth Telecommunications, Inc. ("BellSouth") hereby submits the following comments regarding Rules 1220-4-2-.43 through .54.

1       Rule 1220-4-2-.45(8) – BellSouth proposes that the word "dominant" be replaced with the word "largest". BellSouth does not believe that there is any dominant intraLATA and interexchange carrier in the state. Also, possible disagreements and disputes about whether a given carrier is "dominant" will be avoided by substituting the word "largest", thereby capping charges by inmate pay telephone providers to the rates of the largest intraLATA and interexchange carrier.

2.       Rule 1220-4-2-.51(1) – BellSouth proposes that this Rule be modified to make clear that any "direction" from the Authority to "the telephone company" to disconnect a payphone be in writing. Local telephone companies, including ILECs and CLECs providing payphone access lines, should not be put in the position of being asked to terminate service to a public payphone provider without a clear written directive from the Authority. A written directive, as opposed to a mere verbal request, will avoid confusion and protect ILECs and CLECs from claims that service was terminated in error.

- 3, Rule 1220-4-2-.51(2) – BellSouth proposes that subsection (2) be deleted.

Subsection (2) requires “local service providers” to provide payphone providers

a written notice, with a copy to the Authority, within 24 hours of the directive indicating the location of the disconnection. The notice shall also include the charges for reconnection upon correction of the violation as specified in the tariff of the local exchange company.

BellSouth and other access line providers should not be required to police payphone providers’ compliance with Authority Rules. The Authority has that responsibility. It is the Authority that identifies the violation. It is the Authority that develops evidence of the violation. Therefore, the Authority should already know the location of the payphone in violation of its Rules. Moreover, given the information the Authority gathers in connection with its certification requirements for public payphone providers, the Authority will already have an address for the provider. With the evidence of the violation, location of the payphone in question, and the address of the public payphone provider, there is no reason for the Authority to ask innocent carriers, who have committed no violation, to shoulder the burden of notification. Moreover, as the Rule states, the reconnection charges are already in the tariff and are a matter of public information. Therefore, there is also no need for the local telephone company to communicate reconnection rates to public payphone providers that do not comply with Authority Rules

4. Rule 1220-4-2-51(3) – This Rule requires the “local exchange company” to refund disconnection charges to the public payphone provider if the Authority’s revocation of payphone service authorization proves to be in error. In other words, the Rule contemplates that the entity not charged with a Rule violation (the local exchange

company) foot the bill for reconnection charges. BellSouth proposes that the Rule be revised to state that if the Authority changes its revocation order and determines either that the public payphone provider did not violate a Rule or that the Rule violation was unintentional, that the Authority, rather than the "local exchange company", should refund the connection charges. Otherwise, the "local exchange company" may be penalized without any legal basis or process.

Moreover, once the local exchange provider is directed by the Authority to disconnect service, the provider incurs the cost of disconnection. The local exchange provider should be paid for this service in accordance with the terms of its tariff. Again, if the Authority then decides to direct the local exchange provider to reconnect service, the provider should be paid to do so in accordance with the terms of the tariff. The local exchange company is acting in either case only at the direction of the Authority and should not be asked to absorb any costs as a result of a dispute between the Authority and the payphone provider.

5. Rule 1220-4-2-.54 – BellSouth proposes modifying this Rule to make clear that any directive from the Authority to disconnect service to a public payphone provider be in writing. BellSouth also proposes the following language to make clear that any disconnect and reconnect orders be performed in accordance with the rates and terms set forth in the appropriate tariffs:

The local access line provider shall respond to written direction from the Authority to disconnect and/or reconnect network service in accordance with its approved Tariffs on file with the Authority. All applicable service charges for these activities as specified in those Tariffs shall also apply.

6. General Comment – Throughout the Rules, the terms “the public network”, “local telephone company” and “local exchange company” should be replaced by one consistent term, such as “access line provider.” Payphone access lines are provided not only by ILECs. Facilities-based CLECs, as well as CLECs that use UNE-P, provide or are capable of providing access lines to public payphone providers. The Rules should reflect this reality. Otherwise, the Rules will be out of date on the day they are approved.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

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Substance of Proposed Rule Amendment  
Chapter 1220-4-2-.43 through .54  
REGULATIONS FOR TELEPHONE COMPANIES

Tennessee Regulatory Authority Rule 1220-4-2-.43 through .54, as amended, shall read:

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1220-4-2-.43 AUTHORIZATION TO OPERATE PAY TELEPHONE SERVICE

- (1) Every owner or prospective owner, who is not a public telephone company certified by this Authority in accordance with Tenn. Code Ann. § 65-4-201, of a public pay telephone instrument located in the state of Tennessee connected with or to be connected with the public network shall submit a petition for authorization to provide public pay telephone service to the Authority accompanied by the fee provided for in Tenn. Code Ann. § 65-2-103. Each company or individual operating a public pay telephone service prior to July 1, 1990 and required to be authorized by this rule shall submit one petition for authorization to include all existing public pay telephone locations owned or operated by said company or individual.

All petitions submitted after July 1, 1990 shall be to authorize each public pay telephone service instrument.

- (2) All owners, other than certified public telephone companies, of public pay telephone instruments connected to the public network by the effective date of this rule shall have until July 1 of the year in which this rule goes into effect to submit the petition required by section (1) of this rule. Pay telephone service to commence or to be reconnected to the network after this date shall not be authorized for service until all the requirements of rules governing pay telephone service are met.
- (3) Public pay telephone service shall mean the resale of local service and/or intrastate toll telephone service through customer or telephone company provided equipment which are coin-operated or coin less and whose calls are sent paid or non-sent paid that is made available to the general public.
- (4) Inmate pay telephone service shall mean the resale of local service and/or intrastate toll service through customer or telephone company provided equipment which are coin-operated or coin less and whose calls are sent paid or non-sent paid that is made available exclusively to the inmate population at inmate facilities.

- (5) Pay telephone service shall mean either public or inmate pay telephone service.

1220-4-2-.44 DATA REQUIRED FOR AUTHORIZATION.

- (1) In addition to the receipt of a valid filed petition for authorization, the Authority shall require the sub-mission of relevant data and owner certifications on forms supplied by the Authority concerning the operation of a pay telephone service.
- (2) The following data relating to the entity owning or operating the pay telephone service shall be submitted prior to authorization:
  - (a) the names, address and telephone number of the individual owner or the responsible individual with the entity which owns the instrument;
  - (b) information about the structure of the business organization owning the instrument and where applicable, a copy of any Articles of Incorporation, Partnership agreement or By Laws of any corporation owning the instrument and a copy of a license to do business in Tennessee;



- (c) an up-to-date financial statement for the individual or entity operating the pay telephone service which includes a statement indicating revenues and expenses;
  - (d) the name, address, and telephone number of a Tennessee contact person responsible for and knowledgeable about the instrument or instruments;
  - (e) repair and maintenance information including the name, local address, telephone number, and qualifications of the individual or company responsible for servicing the instrument(s) and supplying refunds;
  - (f) a copy of the display card to be posted on the pay instrument which contains operating instructions and other required disclosures.
- (3) The following data relative to the particular pay telephone instrument shall be submitted prior to authorization:
- (a) a description of the instrument including the name and telephone number of the manufacturer, the model and FCC registration

number, and the precise location by address and telephone number of the instrument;

- (b) identification of the local exchange telephone company (LEC), the inter-exchange carrier, and reseller or alternate operator service serving the instrument.

*Authority. T.C.A. §65-4-116. Administrative History: Original rule filed May 17, 1990; effective July 1, 1990.*

#### 1220-4-2-.45 CERTIFICATIONS REQUIRED FOR AUTHORIZATION

To insure uniformity throughout the state with regard to the provision of pay telephone service to the public, the owner or operator of a public pay telephone and inmate pay telephone service seeking authorization to operate a pay telephone service shall agree to abide by the following terms and conditions:

- (1) The following calls shall be provided by public pay telephones without depositing money and free of charge to the customer: calls to the local exchange operator; 911 or emergency numbers; local and intrastate directory assistance numbers; toll-free and 800 service numbers; pay phone repair and refund numbers; and inter-exchange access numbers.

- (2) The maximum rate allowed on an inmate pay telephone local collect call, including the operator surcharge, is \$1.50 regardless of the duration of the call.
- (3) The public pay telephone shall provide the following: two-way calling capability (unless waived by the Authority); no time limits on calls; the acceptance of nickels, dimes and quarters; and coin return for incomplete calls (coin less phones shall not be required to accept coins).
- (4) All public pay telephone instruments installed after July 1, 1990 shall be installed in accordance with the requirements of the American National Standards Institute for Buildings and Facilities – Providing Accessibility and Usability for Physically Handicapped People, ANSI, A.117.1 (1986), Section 4.29, Telephones. Provided, however, that in a given location where an owner has installed more than one instrument, only one pay telephone instrument shall be required to meet those requirements.
- (5) All public pay telephone and inmate pay telephone instruments shall comply with Authority approved telecommunications industry standards and the current National Electric Code.
- (6) Local telephone directories shall be provided at each public pay telephone service location upon commencement of service.

- (7) The owner of pay telephone service shall read and comply with all Authority rules and regulations governing pay telephone service.
- (8) The owner of inmate pay telephones shall charge for intrastate toll calls no more than the rates approved by the Authority for the ~~dominant~~ largest intraLATA and interexchange carrier in the state.
- (9) The owner of public pay telephone service shall provide an instrument capable of completing local and long distance calls. Provided however, that a coin less pay telephone is exempt from this requirement as long as it is located in close proximity or next to a pay phone with local and long distance calling capabilities.
- (10) The owner of public pay telephone service agrees to provide customer access to all interexchange carriers certificated to do business in Tennessee in the IXC's preferred manner as officially designated by said carrier to the.

*Authority. T.C.A. §65-4-116. Administrative History: Original rule filed May 17, 1990; effective July 1, 1990.*

1220-4-2-.46 AUTHORITY APPROVAL OF AUTHORIZATION TO OPERATE PAY  
TELEPHONE SERVICE

- (1) Upon receipt of the petition, the required data and any fees required for full compliance with Authority rules and statutes, the Authority shall authorize this service by issuing an authorization number for each pay telephone service company. The Authority shall notify the owner of said instrument of this number so service may be commenced.
- (2) The owner of the authorized public pay telephone service may commence service after doing the following:
  - (a) displaying the charge for a local call and any operating instructions on the face of the instrument;
  - (b) affixing the Authority authorization number in a permanent manner to the face of the instrument;
  - (c) displaying on the face of the instrument a telephone number to be used without charge to report malfunctions and obtain refunds;
  - (d) displaying the name of the owner of the instrument and the name of the long distance carrier serving the instrument on the face of the instrument;

- (3) Owners or operators of pay telephone service who has previously been authorized by the Authority for operations in this state may commence service at new locations prior to submission of the required data under terms and conditions to be established by the Authority or its designee.

*Authority: T.C.A. §65-4-116 Administrative History: Original rule filed May 17, 1990; effective July 1, 1990*

#### 1220-4-2-.47 DENIAL OF AUTHORIZATION

Authorization may be denied to those petitioners failing to fully comply with the applicable filing requirements or to pay the required fees as provided by Authority rule or statute.

#### 1220-4-2-.48 AUTHORIZATION RENEWAL

- (1) Authorization to operate pay telephone service shall expire on July 1 of the year following the year in which initial authorization was obtained from the Authority and authorization renewals shall expire annually on each July 1 thereafter.
- (2) In order to renew this authorization, an application must be filed with the Authority before July 1 of each year on forms prescribed by the Authority.

This authorization renewal application shall be accompanied by any annual inspection fee required by statute.

*Authority: T.C.A. §65-4-116 Administrative History: Original rule filed May 17, 1990; effective July 1, 1990*

#### 1220 4-2-.49 PAY TELEPHONE SERVICE VIOLATIONS

- (1) The following shall constitute violations of the Authority's rules and requirements for authorized pay telephone service:
  - (a) Charging an amount for calls which exceed the amount authorized by the Authority.
  - (b) Imposing a time limit for local calls or failing to provide two-way calling service unless one-way service is authorized by the Authority (Inmate pay phones are exempt from this requirement).
  - (c) Charging for or failing to provide access without depositing money for calls to the operator, 911 or emergency numbers where 911 is not available, toll-free services, or intrastate or local directory assistance (Inmate pay phones are exempt from this requirement).

- (d) Attaching the instrument to any subscribed access line service other than a single public telephone access line directly connected to the LEC network and billed at the tariff rate (Inmate pay phones are exempt from this requirement).
- (e) Attaching the instrument to an extension instrument without a private cut-off to automatically disconnect when the receiver is lifted for service, and operating semi-public additional sets connected to an authorized instrument in violation of the applicable tariff of the local exchange company, with the exception that such extension may have a dial or tone pad (Inmate pay phones are exempt from this requirement).
- (f) Failure to display prominently on the face of the pay telephone instrument any of the following:
  - 1. A statement identifying the charge and operating instructions for its use.
  - 2. A statement indicating the name of the owner of the instrument and identifying the long distance carrier serving the instrument.



3. A telephone number, which can be reached without charge or without having to deposit money where users can report malfunctions and obtain refunds (Inmate pay phones are exempt from this requirement).
4. The Tennessee Regulatory Authority authorization number.

(g) Failure to meet any of the following:

1. Requirements governing telephone service access by impaired or handicapped persons as required by Authority rule.
- 2 All applicable telecommunications industry and electrical safety standards as required by Authority rule.

(h) Failure to provide instruments capable of accepting nickels, dimes, and quarters (Coinless and inmate pay phones are exempt from this requirement).

(i) Failure to return coins to the customer for incomplete calls (Coinless and inmate pay phones are exempt from this requirement).

- (j) Failure to repair the instrument within 72 hours of notification by the Authority, unless such repairs are the responsibility of the LEC providing access and failure to provide refunds in a timely manner.
- (k) Failure to provide access without charge to all interexchange carriers certificated to do business in Tennessee in the preferred manner designated with the Authority by each IXC, unless said instrument is owned by an interexchange carrier or is an inmate pay phone.

*Authority: T.C.A. §65-4-116 Administrative History Original rule filed May 17, 1990; effective July 1, 1990.*

#### 1220-4-2-.50 INSPECTION OF PUBLIC PAY TELEPHONE SERVICE

- (1) All authorized pay telephone instruments shall be subject to periodic and random inspections by Authority personnel.
- (2) If upon inspection, a violation is discovered, the Authority inspector shall place an out-of-service sticker on the pay telephone instrument and shall notify the owner as soon as possible of the violation and the penalties therefore. The sticker shall contain the date and time of the inspection and name of the inspector.

- (3) If the violation is determined by the inspector to be unintentional, the owner shall have 72 hours to correct the violation. If the violation is uncollected after this time, the provisions of rule 1200-4-2-.51 shall apply.

*Authority. T.C.A. §65-4-116. Administrative History: Original rule filed May 17, 1990; effective July 1, 1990*

#### 1220-4-2-.51 PENALTIES FOR VIOLATIONS

- (1) Upon determination that a violation exists and after a reasonable attempt to notify the owner, the Authority shall through its designated representative direct in writing that the local telephone company to disconnect the instrument in violation.

- ~~(2) The local telephone company providing access to the instrument shall send the instrument owner a written notice, with a copy to the Authority, within 24 hours of the directive indicating the location of the disconnection. The notice shall also include the charges for reconnection upon correction of the violation as specified in the tariff of the local exchange company.~~

- ~~(3)~~(2) The Authority shall automatically revoke the authorization for any instrument found to be in intentional violation of Authority rules. If the

owner disputes the violation, a hearing may be requested within a reasonable time before the Authority's designee. If no violation is found to exist or if the violation is shown to be unintentional, then the connection charges shall be refunded to the owner by the ~~local exchange company~~ Authority and authorization shall be reinstated by the Authority.

*Authority: T.C.A. §65-4-116 Administrative History: Original rule filed May 17, 1990; effective July 1, 1990.*

1220-4-2-.52 REAUTHORIZATION AFTER VIOLATION

- (1) After disconnection of a public pay telephone instrument for violation of Authority rules, the following procedures shall apply for reauthorization and reconnection of the instrument to provide this service:
  - (a) Temporary reconnection to the network may be ordered by the Chief of the Consumer Services and External Affairs Division or his/her designee at the request of the instrument owner for purposes of repair or verification of correction of the violation. Such reconnection may be temporarily maintained pending the filing of a new petition for authorization with the permission of the Chief.
  - (b) Authorization may be reissued upon receipt of a new petition for authorization which includes a notarized statement verifying correction and accompanied by the fee prescribed by TENN. CODE ANN. §65-2-103. Up-to-date data already on file with the Authority shall not have to be resubmitted. This petition shall be filed with the Authority within ten (10) days of notification of the violation to the instrument owner.

1220-4-2-.53 REVOCATION OF AUTHORIZATION TO PROVIDE INTRASTATE  
PUBLIC PAY TELEPHONE SERVICE

- (1) The Authority may refuse to reauthorize or may permanently revoke the authorization for any pay telephone instrument or instruments which have been disconnected for Authority rule violations on numerous occasions; or may refuse to re-authorize or permanently revoke the authorization of any pay telephone service owner or operator who has demonstrated a willful disregard for and an inability to comply with Authority regulation of pay telephone service. Revocation of authorization may also be ordered for any just cause.
- (2) Permanent revocation of authorization shall only be ordered by the Authority after opportunity for a hearing is provided in accordance with the provisions of TENN. CODE ANN. §65-2-106 and all applicable provisions of the state Administrative Procedures Act.

1220-4-2-.54 UNAUTHORIZED PUBLIC PAY TELEPHONE SERVICE

Any pay telephone service which is not authorized for service by this Authority after July 1 of the year in which this rule takes effect shall at the written direction of the Authority, be disconnected from the network by the local exchange company until the requisite authorization is obtained from the Authority and communicated in writing to the

access line provider.

access line provider

~~local exchange company~~. The ~~local exchange company~~ shall respond to written direction from the Authority to disconnect and/or reconnect network service in accordance with its approved Tariffs on file with the Authority. All applicable service charges for these activities as specified in those Tariffs shall also apply.